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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 77 OF 2006
ALONGWITH
CIVIL APPLICATION NO. 1427 OF 2006

Shri Bhagwant Shikshan Prasarak Mandal ... Petitioner

V/s

1. Shri Vijayprakash Ambadas Joshi
2. Adminitrative Officer (Primary)
   Primary School Board, Barshi,
   Dist. Solapur. ... Respondents

Mr. P.S.Dani with Mr. Parag Shelke for the petitioner.

Mr. I.M.Khairdi for the respondent No.1.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 14TH SEPT., 2007.

P.C.:

1. The petition challenges the order of the School Tribunal dated 18.11.2005. By this order, the School Tribunal has set aside the order of termination dated 5.5.2004 terminating the services of the 1st respondent. The School Tribunal has reinstated him in service with continuity of service and full back wages with consequential benefits.

2. The contention raised by the learned counsel for the petitioner is that the School Tribunal has, after closing the case for judgment, allowed the 1st respondent to submit certain documents without notice to the petitioner. These documents have been considered by the learned Judge and on the basis of these documents, the Tribunal has ruled in favour of the 1st respondent. It is submitted that the Tribunal has flouted all norms of procedure by allowing the 1st respondent to produce the documents after the matter was closed for judgment. No notice was given to the petitioner that those documents were being produced. It is further submitted that the Tribunal has held that the petitioner has no locus to represent the institution i.e. Shri Bhagwant Shikshan Prasarak Mandal, Barshi. It was contended that the change report had been filed before the Charity Commissioner although no orders were produced to that effect.

3. The learned advocate appearing for respondent No.1 has fairly conceded that the documents produced by the 1st respondent were accepted by the Tribunal without any notice to the petitioner.

4. In these circumstances, it would be in the fitness of things to remand the appeal to the Tribunal for

hearing the appeal afresh. The Tribunal is expected to follow the norms of judicial propriety while deciding the appeal. It appears from the record and proceeding that the matter has been taken on the board on three occasions by adding it to the daily board by hand. This obviously indicates that it has added as a afterthought either because of the insistence of the 1st respondent or because of some other reason. In my view, this procedure adopted by the School Tribunal cannot be countenanced.

5. The petition is disposed of as follows:

(i) The impugned order of the School Tribunal is set aside.

(ii) The Appeal No. 363 of 2004 is remanded to the School Tribunal, Pune Region, Solapur, for hearing afresh.

(iii) The parties are at liberty to lead fresh evidence in the matter, if need be.

(iv) The Tribunal will consider the evidence already on record and any fresh evidence which the parties may lead for deciding the issues.

(v) All contentions of the parties are left open.

6. Before parting with the matter, it must be mentioned that Mr. Ashish S. Gaikwad, learned advocate appearing for Mr. Pandurang Sopanrao Pade & anr., has filed a civil application for permission to intervene in the petition. This civil application is based on the contention that the petitioner is no longer incharge of the functioning of the Sanstha in view of the change report having been submitted. In my view, there is no need to grant the civil application in view of the fact that the petition is being disposed of by remanding the appeal to the School Tribunal. Civil Application No. 1427 of 2006 is dismissed. If any application is filed by the applicants in the civil application before the School Tribunal, it shall be decided on its own merits by the Tribunal.

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